



**U.S. Citizenship  
and Immigration  
Services**

**Non-Precedent Decision of the  
Administrative Appeals Office**

In Re: 32868817

Date: AUG. 8, 2024

Appeal of Nebraska Service Center Decision

Form I-140, Immigrant Petition for Alien Workers (Extraordinary Ability)

The Petitioner, an epidemiologist, seeks classification under the employment-based, first-preference (EB-1) immigrant visa category as a noncitizen with “extraordinary ability.” *See* Immigration and Nationality Act (the Act) section 201(b)(1)(A), 8 U.S.C. § 1153(b)(1)(A). Successful petitioners in this category must demonstrate “sustained national or international acclaim” and extensively document recognition of their achievements in their fields. *Id.*

The Director of the Nebraska Service Center denied the petition. The Director concluded that the Petitioner met two of ten initial evidentiary criteria – one less than needed for a final merits determination. The Director also found insufficient evidence of the Petitioner’s required intent to continue working in her field in the United States. On appeal, the Petitioner argues that she sufficiently established her intent to work as a U.S. epidemiologist. She also contends that she met at least four additional evidentiary criteria.

The Petitioner bears the burden of demonstrating eligibility for the requested benefit by a preponderance of the evidence. *Matter of Chawathe*, 25 I&N Dec. 369, 375-76 (AAO 2010). Exercising de novo appellate review, *see Matter of Christo’s, Inc.*, 26 I&N Dec. 537, 537 n.2 (AAO 2015), we conclude she has submitted evidence of her performance in a critical role for organizations with distinguished reputations and demonstrated her intent to continuing working in her field in the United States. We will therefore withdraw the Director’s contrary decision and remand the matter for a final merits determination and entry of a new decision consistent with the following analysis.

## I. LAW

To qualify as a noncitizen with extraordinary ability, a petitioner must demonstrate that they:

- Have “extraordinary ability in the sciences, arts, education, business, or athletics;”
- Seek to continue work in their field of expertise in the United States; and
- Through their work, would substantially benefit the country.

Section 203(b)(1)(A)(i)-(iii) of the Act.

The term “extraordinary ability” means expertise commensurate with “one of that small percentage who have risen to the very top of the field of endeavor.” 8 C.F.R. § 204.5(h)(2). Evidence must demonstrate a noncitizen’s receipt of either “a major, international recognized award” or satisfaction of at least three of ten lesser evidentiary criteria. 8 C.F.R. § 204.5(h)(3)(i-x).<sup>1</sup>

If a petitioner meets either of the standards above and all other requirements, USCIS must then make a final merits determination as to whether the record, as a whole, establishes sustained national or international acclaim and recognized achievements placing them among the small percentage at their field’s very top. *Kazarian v. USCIS*, 596 F.3d 1115, 1119-20 (9th Cir. 2010); *see generally* 6 *USCIS Policy Manual* F.(2)(B), [www.uscis.gov/policy-manual](http://www.uscis.gov/policy-manual).

## II. ANALYSIS

The record shows that the Petitioner, a Russian native and citizen, has earned two doctoral degrees in epidemiology, which involves the incidence, distribution, and control of disease in defined populations. *See* Merriam-Webster Dictionary, <https://www.merriam-webster.com>. Over a career of more than 35 years in Russia, she has served as a: city epidemiologist; chief executive office of an outpatient health center; strategic advisor to the country’s health ministry; and director of a medical and biological agency. From 2010 to 2021, the Petitioner served as associate medical director of epidemiology at a Russian hospital and, since 2014, as a full professor of infectious diseases and epidemiology. The Petitioner states that, in the United States, she seeks to continue her research and teaching career in epidemiology.

The record does not demonstrate – nor does the Petitioner assert – her receipt of a major international award. She must therefore meet at least three of the ten lesser evidentiary requirements at 8 C.F.R. § 204.5(h)(3)(i-x).

The record supports the Director’s findings that the Petitioner submitted evidence of her participation as a judge of others’ work in her field and her authorship of scholarly articles in her field. *See* 8 C.F.R. § 204.5(h)(3)(iv), (vi). On appeal, she contends that she also submitted documentation that she:

- Received lesser nationally or internationally recognized awards in epidemiology;
- Appeared as the subject of published materials relating to her work in the field;
- Made original contributions of major significance in the field; and
- Performed in a leading or critical role for organizations with distinguished reputations.

*See* 8 C.F.R. § 204.5(h)(3)(i), (iii), (v), (viii).

### A. Performance in a Leading or Critical Role

This criterion requires “[e]vidence that the [noncitizen] has performed in a leading or critical role for organizations or establishments that have a distinguished reputation.” 8 C.F.R. § 204.5(h)(3)(viii).

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<sup>1</sup> If an evidentiary standard does not “readily apply” to a petitioner’s occupation, they may submit “comparable evidence” to establish eligibility. 8 C.F.R. § 204.5(h)(4).

When adjudicating this requirement, USCIS first determines whether a petitioner has performed in a leading or critical role for an organization, establishment, or its division or department. *See generally* 6 USCIS Policy Manual F.(2)(B)(1). A leading role means that a petitioner “is (or was) a leader within the organization or establishment or a division or department thereof.” *Id.* In contrast, a petitioner in a critical role “has contributed in a way that is of significant importance to the outcome of the organization or establishment’s activities.” *Id.*

Second, USCIS determines whether the organization, establishment, department, or division for which the person holds or held a leading or critical role, has a distinguished reputation. *Id.* The word “distinguished” means “marked by eminence, distinction, or excellence” or “befitting an eminent person.” Merriam-Webster Dictionary, *supra*. When determining the existence of a distinguished reputation, the Agency considers not only an organization’s relative size and longevity, but also other relevant factors such as the scale of its customer base or relevant media coverage. *See generally* 6 USCIS Policy Manual F.(2)(B)(1).

The Director acknowledged evidence of the Petitioner’s performance in a critical role for the hospital where she worked from 2010 to 2021. Letters from hospital supervisors state that the infection-control measures she developed and implemented allowed the facility to remain open for elective surgeries throughout the COVID-19 pandemic. The hospital’s chief medical officer stated that COVID infected only 40 patients during a two-year period, with no COVID-related deaths reported at the 300-bed facility. He said that more than 90% of the hospital’s staff received vaccinations against the virus, and only 1 to 2% of them became infected. The chairman of the hospital’s neuro intensive care department stated that the Petitioner has developed numerous protocols for Russian medical facilities “that have been of critical importance in keeping a range of healthcare options open throughout an unprecedented global pandemic.”

The Director found insufficient evidence that the hospital that employed the Petitioner has a distinguished reputation. But the Director overlooked proof. In response to the Director’s request for additional evidence, the Petitioner submitted a copy of a 1997 article about the hospital in a professional journal. The article indicates that the hospital is almost 100 years old and describes the facility as “Russia’s major scientific research and clinical center.” The article details various breakthroughs that have occurred at the hospital in the fields of neuropsychology, endovascular neurosurgery, intensive care, and quantitative neuroanatomy. The Director noted that other evidence refers to the hospital by another – although similar – name. A preponderance of the evidence, however, indicates that both names refer to the same institution. Thus, contrary to the Director’s decision, the Petitioner has submitted evidence of her performance in a critical role for organizations with distinguished reputations. *See* 6 USCIS Policy Manual F.(2)(B) (“[A]lthough some of the regulatory language relating to evidence occasionally uses plurals, it is entirely possible that the presentation of a single piece of evidence in a specific evidentiary category may be sufficient.”)

The Petitioner has met three of the ten initial evidentiary criteria. We therefore need not consider her arguments regarding her purported satisfaction of other evidentiary requirements. *See INS v. Bagamashad*, 429 U.S. 24, 25 (1976) (stating that agencies need not make “purely advisory findings” on issues unnecessary to their ultimate decisions).

## B. Intent to Continue Working in the Field

A petition for a noncitizen with extraordinary ability need not include a job offer. 8 C.F.R. § 204.5(h)(5). But the filing must include “clear evidence that the [noncitizen] is coming to the United States to continue work in the area of expertise.” *Id.* Such evidence may include: a letter from a prospective employer; evidence of “prearranged commitments;” or a petitioner’s statement detailing their plans to continue their work in the United States. *Id.*

The Director acknowledged the Petitioner’s submission of a letter from the chairwoman of a U.S. medical school’s anesthesiology department. But the Director concluded that “the letter does not demonstrate that you have prearranged commitments to continue working in the U.S.”

As the Petitioner argues, however, the letter states that she helped the school implement an infection control program and “would make a great candidate to lead” the program. The letter states: “Once she receives her certificate of permanent residency, we offer [the Petitioner] a permanent post and full access to the Department’s resources so that she may continue her vital research.” Also, the Petitioner previously stated her intent to continue researching and teaching epidemiology in the United States. Thus, contrary to the Director’s decision, the Petitioner submitted evidence of her intent to continue working in her field in the United States.

## C. Remand

The Petitioner has met at least three of ten initial evidentiary requirements and demonstrated her intent to continue working in her field in the United States. Thus, USCIS must now make a final merits determination on her petition. *See Kazarian*, 596 F.3d at 1119-20; *see generally* 6 *USCIS Policy Manual* F.(2)(B).

The Petitioner urges us to make our own final merits determination, calling for our exercise of de novo review. But the Director did not make a final merits determination for us to review, and we decline to make one in the first instance. We will therefore remand the matter.

On remand, the Director must decide if the Petitioner has sustained national or international acclaim and if her achievements have been recognized in her field, identifying her as one of that small percentage who has risen to the field’s very top. *See* 6 *USCIS Policy Manual* F.(2)(B)(2). The Director should consider any potentially relevant evidence of record, even if it does not fit one of the regulatory criteria or was not presented as comparable evidence. *Id.* The Director should base the petition’s ultimate approval or denial on the type and quality of evidence submitted. *Id.*

## III. CONCLUSION

The Petitioner has met at least three of ten initial evidentiary criteria and demonstrated her intent to continuing working in her field in the United States. USCIS must now make a final merits determination on her petition.

**ORDER:** The Director's decision is withdrawn. The matter is remanded for entry of a new decision consistent with the foregoing analysis.